

Attorney Docket No.: DEX-0255  
Inventors: Sun et al.  
Serial No.: 10/016,634  
Filing Date: October 31, 2001  
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#### REMARKS

Claim 1-17 are pending in the instant application. Claim 1 has been amended. Support for this amendment is provided in the specification at page 14, lines 17-22. Thus, no new matter has been added by this amendment.

Claims 1-17 have been subjected to a Restriction Requirement as follows:

Group I, claims 1-5 and 7-9, drawn to isolated nucleic acid, expression vectors, cells comprising the vector, and method of producing a polypeptide classified in class 536, subclass 23.1 and class 935, subclass 66;

Group II, claim 6, drawn to method of use product of Group I for detecting polynucleotides, classified in class 435, subclass 6;

Group III, claims 10 and 11, drawn to a purified polypeptide encoded by a polynucleotide, classified in class 530, subclass 300;

Group IV, claim 12, drawn to an antibody to a polypeptide, classified in class 530, subclass 388.1;

Group V, claim 13, drawn to antibody-based methods of screening, classified in class 435, subclass 7.1;

Group VI, claim 14 (in part), drawn to peptide-based method

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of screening, classified in class 435, subclass 7.1;

Group VII, claim 14 (in part), drawn to polynucleotide-based method of screening, classified in class 435, subclass 6;

Group VIII, claim 15, drawn to diagnostic kit comprising means for determining products of Groups I or III;

Group IX, claim 16, drawn to use of antibody in cancer treatment;

Group X, claim 17 (in part), drawn to vaccine comprising polypeptide, classified in class 424, subclass 184.1; and

Group XI, claim 17 (in part) drawn to vaccine comprising polynucleotide, classified in class 424, subclass 184.1.

The Examiner suggests that the Groups are distinct. Specifically, with respect to Groups I and III, the Examiner suggests that the claims are directed to different chemical types regarding the critical limitations. With respect to Groups III and IV, the Examiner suggests that the claims are drawn to structurally and biochemically different polypeptide and antibodies, respectively.

With respect to Groups II and VII and Groups V and IX, the Examiner suggests that the claims are drawn to alternative methods of use of polynucleotides and antibodies, respectively.

With respect to Group VII, the Examiner suggests that the

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claims kit is unrelated to the other Groups.

Finally, with respect to Groups II and X, Groups I and XI, and Groups X and XI, the Examiner suggests that the claims are drawn to patentably distinct products, respectively.

Further, at page 5 of the Restriction Requirement under the heading entitled "Sequence Election Requirement Applicable to Groups III-VIII", the Examiner suggests that each Group detailed above reads on a plurality of independent and/or patentable distinct sequences and has requested Applicants to elect a single amino acid or nucleic acid sequence. Clarification as to whether this sequence election requirement is applicable to all Groups or merely Groups III-VIII is respectfully requested.

Applicants respectfully traverse this Restriction Requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all

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the claims, at least when limited to elected nucleic acids or polypeptides is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

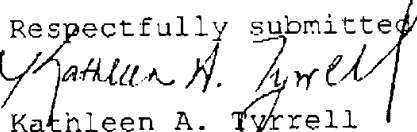
Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

In addition, with respect to the election of a single sequence, MPEP § 803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Accordingly, withdrawal of this sequence election requirement and reconsideration to include a more reasonable number of at least 10 sequences in accordance with MPEP § 803.04 is also respectfully requested.

However, in an earnest effort to be completely responsive, Applicants elect to prosecute Group I, claims 1-5 and 7-9, with traverse. Clarification has been requested, *supra*, as to whether the sequence election is required for Group I. If a sequence election is required, Applicants elect SEQ ID NO:19 encoding SEQ ID NO:115, with traverse.

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Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,  
  
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